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JUN 10 2004

In re Application of:

SANDHU *et al.*

Serial No.: 10/050,347

Filed: January 15, 2002

Attorney Docket No.: MI22-1897

DECISION ON
PETITION

This is a decision on the petition filed December 08, 2003 to accept a copy of a Request for Continued Examination (RCE), in place of the apparently lost original RCE, as timely, and to withdraw the holding of abandonment in the above identified application under 37 C.F.R. §1.181. No fee is required.

The petition is **GRANTED**.

A Notice of Allowance and Issue Fee Due (Notice) was mailed on July 02, 2002. Although no Notice of Abandonment has been mailed, the application would have gone abandoned, by operation of law, as midnight on October 02, 2002.

The petitioner asserts that on August 27, 2002, an RCE, with an Information Disclosure Statement (IDS) were filed. To support this assertion, the petitioner has provided a copy of the RCE, the IDS, a copy of a postcard receipt bearing a date stamp of August 27, 2002, and a copy of the Express Mail Label with a "date in" of August 27, 2002.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 C.F.R. §1.10 (e) sets forth procedures for filing a petition to the Commissioner to accept correspondence as being filed in the Office on the United States Postal Service (USPS) deposit date, provided that:

- (1) *The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;*
- (2) *The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";*
- (3) *The petition includes a copy of the originally deposited paper(s) or fee(s)*

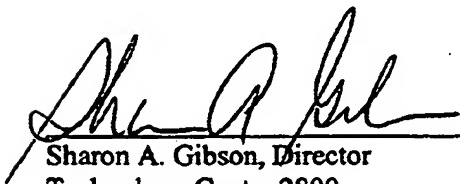
that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Commissioner, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition meets the above stated requirements. Accordingly, the petition is granted. The copy of the RCE and IDS submitted with the petition are accepted as being timely filed since the original was apparently lost.

The application file is being forwarded to the Technology Center 2800 support staff for processing the RCE. From there, the application will be forwarded to the examiner for taking appropriate action.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.



Sharon A. Gibson, Director
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